



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Telemechanics Inc.

File: B-229748

Date: March 24, 1988

DIGEST

Proposal was properly excluded from the competitive range where the record shows that the procuring agency had a reasonable basis for its determinations that the proposal was so deficient in numerous technical areas as to require major revision in order to be considered technically acceptable and that the protester did not meet the stated technical experience requirements.

DECISION

Telemechanics Inc., protests the exclusion of its proposal from the competitive range as technically unacceptable under request for proposals (RFP) No. DTCG23-86-R-20028, a total small business set-aside issued by the United States Coast Guard, Department of Transportation (DOT) for radar simulators. Telemechanics contends that it offered a technically superior radar simulation system, and that the technical criticisms of its proposal were erroneous.

We find the protest without merit.

The RFP was issued on May 4, 1987, and DOT received six proposals by the June 26 closing date. A DOT technical evaluation team evaluated the proposals and determined that four were technically acceptable and should be included in the competitive range and that two, including Telemechanics' proposal, were technically unacceptable. The evaluation team gave Telemechanics' proposal a technical score which was half that given to the highest rated technical proposal,

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and two-thirds that given to the lowest rated technical proposal which was included in the competitive range.^{1/}

The evaluation team found Telemechanics' proposal deficient in more than 20 specific areas, most of which related to the analysis of the requirement and method of approach evaluation criteria, which concerns the offeror's understanding of the requirements and the approach to fulfilling these requirements. The team also found the proposal deficient with respect to the criteria relating to technical experience and to the reliability of the simulator. The team determined that the technical deficiencies were so substantial that major revision would be required in order for the proposal to be made technically acceptable. The contracting officer concurred with this finding and determined to exclude Telemechanics' proposal from the competitive range. Telemechanics takes exception, in part or in whole, to all of the stated deficiencies.

The evaluation of proposals and the resulting determination as to whether an offeror is in the competitive range are matters within the discretion of the contracting activity, since it is responsible both for defining its needs and for deciding on the best methods of accommodating them. Harbert International, Inc. B-222472, July 15, 1986, 86-2 CPD ¶ 67. Generally, offers that are unacceptable as submitted and would require major revisions to become acceptable are not for inclusion in the competitive range. Essex Electro Engineers, Inc., et al., B-211053.2, et al., Jan. 17, 1984, 84-1 CPD ¶ 74. Further, in reviewing an agency's evaluation we will not reevaluate the technical proposals, but instead will examine the agency's evaluation to ensure that it had a reasonable basis and did not constitute a violation of procurement statutes or regulations. Emprise Corp., B-225385, Feb. 26, 1987, 87-1 CPD ¶ 223.

We have reviewed the protester's technical proposal as well as the conclusions and recommendations of the agency's technical evaluation team. Discussed below are examples of

^{1/} Because award has not been made under this RFP, DOT has only disclosed limited information to the protester, not including the evaluation scores. Accordingly, we will not disclose the scores, and our decision must be general regarding the technical evaluation. We have, however, examined the entire record in camera to determine whether DOT's action had a reasonable basis. See Computer Brokers, Inc., B-226103.2, Nov. 30, 1987, 87-2 CPD ¶ 526; Tracor Marine, Inc., B-222484, Aug. 5, 1986, 86-2 CPD ¶ 150.

the deficiencies noted by the evaluators. We find no basis to question the agency's conclusion that the protester's proposal was technically unacceptable, and its resulting decision to exclude the protester from the competitive range.

Many of Telemechanics' complaints involve its disagreement with the agency as to what is necessary or desirable in order to fulfill the RFP's technical requirements. Thus, in response to the criticism that Telemechanics' proposal failed to account for specific radar characteristics, Telemechanics simply argues that "most of the characteristics of the simulated radar are software programmable." Similarly, in response to the criticism that Telemechanics' proposal failed to specify the range, resolution and accuracy of the radar simulator, or to indicate the relationship between the screen resolution and indicator display resolution in yards, Telemechanics argues that: "The number of bits of resolution and accuracy with which internal computations are carried out are almost unimportant to the performance of a simulator. . . ." Regarding the fact that its proposal did not specify the radar cross sectional area and length of targets which its product simulates, Telemechanics asserts that: "A radar simulator is not a radar, and does not operate anything like a radar. While real radars detectability is sometimes given in terms of the size of the smallest detectable target, a radar simulator has no equivalent limitation. Almost any radar simulator can simulate almost any size target. Hence this issue was not discussed."

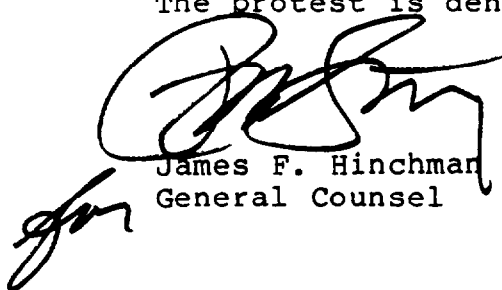
In essence, Telemechanics has conceded the validity of the stated deficiencies, but takes exception to the agency's evaluation of the significance of the deficiencies. The fact that a protester does not agree with an agency's evaluation of its proposal does not render the evaluation unreasonable, or contrary to law. Diversified Services, Inc., B-227555.3, Nov. 25, 1987, 87-2 CPD ¶ 516. In addition, Telemechanics does not dispute DOT's criticism that its company failed to demonstrate in its proposal, as required under the RFP, any technical experience with simulators which establishes that it could meet the solicitation requirements and the delivery schedule, and further that Telemechanics proposal took exception to the delivery schedule by stating that it could be met provided that there are "no delays in receiving the required approvals at all stages." Telemechanics' only response is to concede that while it is a relatively new company, its key personnel have extensive experience in radar simulators.

Accordingly, we find that DOT had a reasonable basis to conclude that Telemechanics' proposal was technically unacceptable and not for inclusion in the competitive range.

In its initial submission Telemechanics also protested that the RFP limited the technical proposal to 25 double spaced pages, that an insufficient period of time--3 weeks--was allowed for preparation of the proposal, and that the specifications were not competitive because they were substantially the same as equipment already produced by one of the competing offerors whose equipment is currently installed at another Coast Guard facility. DOT points out that none of the four technically acceptable offerors found the 25-page limit inadequate, nor did they have difficulty preparing their proposals within the time period permitted--which was originally 4 weeks, but due to amendments was extended to 8 weeks. We note that these two issues are untimely because they relate to apparent solicitation improprieties which, under our Bid Protest Regulations, must be raised prior to the closing date for the receipt of proposals. 4 C.F.R. § 21.2(a)(1) (1987).

With respect to the alleged restrictiveness of the specifications, the agency points out that five other companies were able to compete, four of which have stated that they did not find the specifications restrictive, and submitted proposals which were found technically acceptable. In any event, since Telemechanics, in its comments on the agency report, does not continue its argument in any of these three respects, these aspects of the protest are deemed abandoned. See Varga Enterprises, Inc., B-228043, Oct. 15, 1987, 87-2 CPD ¶ 364.

The protest is denied.



James F. Hinchman
General Counsel